

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO.1169 OF 2004

A.G.Pardeshi & Ors.....Petitioners

Versus

N.T.C.(S.M.) Ltd. & Anr...Respondents

Mr.P.M. Patel, for the Petitioners

Ms.Nandini Menon, for the Respondent No.2.

CORAM: F.I. REBELLO, J.

DATE : 5th November,2004

P.C.:

1. The matter was placed for hearing of the Notice of Motion No.441 of 2004. After hearing the parties by consent the petition itself can be heard and disposed of.

2. In the complaint filed in paragraph 10 the petitioners have averred that they are entitled to the salary either under the BIR scale or NTC scale. In the written statement filed on behalf of the respondents the only denial was that the petitioners are not entitled to the salary as per the BIR scale. Thereafter on merits the learned Industrial Court was pleased to reject the contention of the petitioners for claiming BIR scale. In so far as the contention that they are entitled to NTC scale the learned Industrial Court felt that the petitioners can file independent complaint.

3. After hearing Counsel for the parties in my opinion considering the averments in the complaint ends of justice would be met if the following directions are issued:-

(i) The impugned order dated 12th December, 2003 is set aside. The matter is remanded back to the Industrial Court for considering the contention of the petitioners for NTC Scale in

the alternative. It will be open to the parties, if they so desire, to lead any evidence on that count. Considering that the complaint is of the year 1991 the Industrial Court is directed to dispose of the complaint at any rate on or before 31st January, 2005.

(ii) If the petitioners are aggrieved by the order passed on remand it will then be open to them to file a petition challenging both the order rejecting their case for BIR scale as well as NTC Scale.

(iii) Rule made absolute accordingly. No order as to costs.

(iv) Needless to say that all contentions of the parties are left open to be considered by the Industrial Court.

(F.I.REBELLO, J.)